

CHAPTER 6

Title Evidence, Title Clearance and Closing

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CHAPTER 6

TITLE EVIDENCE, TITLE CLEARANCE AND CLOSING

1. PURPOSE AND SCOPE.

This Chapter prescribes the policies and procedures in obtaining title evidence and the procedures on closing of title to property acquired by the Department of the Navy through direct purchase.

2. REFERENCES.

- (a) "Standards for the preparation of title evidence in land acquisitions by the United States" prepared by the Department of Justice, Land and Natural Resources Division
- (b) The Directory of American Title Associations, 1725 Eye Street, N.W., Washington, DC, 20006
- (c) Contract for Title Evidence, NAVPAC 11011/6 (5-71)
- (d) Power of Attorney by Individual for the Collection of a Specified Check Drawn on the Treasurer of the United States, Standard Form 232
- (e) "A Procedural Guide for the Acquisition of Real Property by Governmental Agencies, Prepared by the Department of Justice, Land and Natural Resources Division, 1972

3. REQUIREMENTS OF THE DEPARTMENT OF JUSTICE.

Title evidence obtained for land acquisitions by the Department of the Navy shall conform to the requirements contained in reference (a). Particular attention is directed to those sections of the Standards entitled "Period of Search" and "Limitation of Liability." Proper application of the provisions of these sections will result in substantial savings to the Government in both time and money.

4. SOURCES FOR PROCUREMENT OF TITLE EVIDENCE.

The Engineering Field Division (EFD) is authorized to procure all title evidence required in connection with acquisition of lands and interest therein. The Department of the Navy procures evidence of title through procedures established by the Armed Services Procurement Regulations. Before entering into a title evidence contract, a determination will be made by the EFD as to the most acceptable type of title evidence based upon the guidelines established herein and the source from which such title evidence may be procured. Title evidence should then be obtained promptly in order that the action required to complete an acquisition may be taken and payment made to owners without undue delay.

As a general rule, title evidence is obtained from title companies, or individuals who have been approved by the Attorney General.

The Department of Justice periodically furnishes the Commander, Naval Facilities Engineering Command (NAVFACENGCOM) with the names of attorneys, abstract and title companies approved by the Attorney General for the purpose of supplying title evidence in connection with land being acquired by the United States. The original listing and all supplements thereto are forwarded to the EPD as they are received by NAVFACENGCOM. Reference (b) lists, by States, title companies and abstract companies that provide title certificates and title insurances and the names of companies that provide title insurance or title certificates for abstract companies mentioned therein. The list contained in this Directory does not include all companies and individuals qualified to provide satisfactory title evidence. The EPD shall determine names and addresses of title companies and abstracters available to furnish title evidence and whether such companies or abstracters have been approved by the Attorney General as an acceptable company or abstracter. When any title company or abstracter has not been approved by the Attorney General, but is otherwise satisfactory, action will be initiated to determine the acceptability of such company or abstracter to the Attorney General. This determination will be obtained through the United States Attorney for the judicial district in which the land is located. Qualified Government personnel may be used for the preparation of abstracts of title where considered advisable or desirable by the EPD.

5. TITLE CERTIFICATES, ABSTRACTS OF TITLE, AND TITLE INSURANCE POLICIES.

The section of the Standards of the Department of Justice entitled "Evidence of Title Acceptable to Prudent Attorneys and Title Examiners in the Locality in which the Land is Situated will Ordinarily be Acceptable to the Department" specifies the types of title evidence which must be used. Of those listed, certificates of title, abstracts of title or title insurance policies are customarily used. In some sections of the country abstracts of title are customarily used while in other sections it is necessary to use certificates of title or title insurance policies. In sections where there is a clear choice between title insurance policies, certificates of title and abstracts of title, title insurance policies or certificates of title, in that order, are preferred provided their cost is not vastly in excess of the cost of obtaining abstracts of title. Owner's duplicate certificates of title issued pursuant to satisfactory systems of title registration similar to the Torrens system will ordinarily be acceptable evidence of title. Therefore, when title to real property being acquired by the Government has been registered under a satisfactory system of title registration, certificates of title issued pursuant thereto should be used.

6. OTHER TYPES OF TITLE EVIDENCE.

In addition to abstracts of title, certificates of title, title insurance policies, and certificates issued, under a land registration

system, there are a variety of other searches that provide title information. These include, but are not limited to, lot book reports, record owner searches, and encumbrance searches. Real Estate personnel of the EFD should familiarize themselves with all types of title evidence including the above to determine in what instances the various types of title evidence may be utilized for special purposes. Normally, procurement of title evidence will be based upon formal advertising in accordance with the Armed Services Procurement Regulations. The policy of Congress that all procurements shall be on a competitive basis to the maximum extent possible is clearly set forth in the ASPR and 10 U.S.C. 2304. Negotiated contracts for procurement of title evidence is permissible only upon a determination that advertising is not feasible or in the best interest of the Government.

7. DELEGATION OF AUTHORITY.

The EFD is hereby authorized, within the limitations of this Chapter, to select the contractor for the performance of title evidence services, negotiate the terms and conditions of the contract for such services, prepare the contract, make the award, and execute the contract without further reference to NAVFACENGCOM, provided that a determination was made that title evidence cannot be obtained by competitive bidding. The authority delegated herein may be redelegated.

8. TITLE EVIDENCE CONTRACTS.

All title evidence contracts will be prepared on the form indicated by reference (c). Any changes required in specific instances shall be approved and initiated by Counsel for the EFD concerned. The appropriate Contract Number and accounting data must be shown on the original and each copy of the contract, except that accounting data need not be shown on the contractor's copy.

9. PROCEDURES FOR CONTRACTING FOR TITLE EVIDENCE.

The evidence will be obtained in accordance with Armed Services Procurement Regulations (ASPR). If advertising is used, the methods described in Section 2 of ASPR will be followed in complying with 10 U.S.C. 2304. Contracts entered into without advertising cite in NAVFAC 11011/6, Section 1 of the General Provisions, 10 U.S.C. 2304(a)(4) as the applicable section under which the contract was made. If negotiations are used contracts shall be entered into on the basis of proposals, exclusive of the amount of the fee, solicited from qualified companies and abstracters. When soliciting proposals to furnish title evidence, title companies and abstracters must be informed, when appropriate, that time is of the essence and that ability to comply with delivery requirements will be a decisive factor in selecting the contractor and that requirements for the preparation of title evidence submitted in the proposal will constitute a part of any contract for title evidence which will be

entered into. Selection of the contractor and negotiation of the fee shall then be made. The contract must incorporate all of the covenants, terms and conditions which are contemplated. No promises, verbal or otherwise, which might be construed to obligate the Government beyond the terms and conditions of the contract will be made to any abstractor or title company. Reference (c) provides for the furnishing of title evidence on "per abstract," "per certificate of title" or "per policy" basis. If this basis for contracting for abstracts of title is not possible, contracts may be based on a "per item" or "per page" basis. Where necessary, changes in the applicable paragraphs of NAVFAC 11011/6 may be made in order to comply with local practices, regulations, state statutes or other lawful requirements. In some sections of the country the fee for furnishing title evidence is based on a schedule of rates. The contract price should never exceed these established rates. Rates so established are based normally on real estate transactions involving a single parcel. As Government transactions frequently involve numerous parcels, negotiations in these instances will be conducted to obtain the title evidence at a lower rate. In acquisitions involving large areas of lands it may be necessary or desirable to enter into more than one contract for title evidence. In such cases the portions of the acquisition to be covered by each contract will be clearly identified, defined and described in each contract. Continuous or annual contracts for title evidence are not authorized. A contract shall be entered into for each specific project.

10. FUNDS CHARGEABLE FOR TITLE EVIDENCE FOR MCON AND MCNRF PROJECTS.

Expenses for obtaining title evidence for the acquisition of real property for MCON and MCNRF projects are chargeable to program assignments issued for planning purposes.

11. FUNDS FOR TITLE EVIDENCE FOR OTHER ACQUISITION PROJECTS.

Funds for payment of expenses for obtaining title evidence for all other real property acquisition projects will be made available to the EFD by the acquiring activity or its Major Claimant based on estimates of the costs thereof furnished by the EFD.

12. DISTRIBUTION OF TITLE EVIDENCE CONTRACTS.

Completed title evidence contracts (NAVFAC 11011/6) will be distributed by the EFD as follows:

Signed Original	EFD Files
Signed Copy	Contractor
Signed Copy	NRFC Washington, DC

Conformed Copy

NAVFACENGCOM (20R)

Conformed Copy

NRFC (with Daily Report of Obligation)

Delivery of the copy to NAVFACENGCOM (20R) may be accomplished by copy of the transmittal letter addressed to the contractor, but in addition, must be accompanied by a copy of the Invitation for Bids and an abstract of the bids received or if the contract was awarded as the result of negotiations in lieu of competitive bidding, a copy of the determination required by paragraph 7, a statement showing the names of the persons or firms solicited to submit proposals and a listing of the proposals received and the fee agreed upon.

13. ORDERING TITLE EVIDENCE.

Where the contract does not specify the order in which title evidence for particular parcels will be furnished, orders as provided for in NAVFAC 11011/6 will be submitted to the abstractor or title company specifying the order in which title evidence for the particular parcels involved will be furnished. If an abstract in satisfactory form is procured from a land owner, it will be transmitted to the abstractor with an order for its continuation or extension.

14. NEED FOR FINAL CERTIFICATE OF TITLE OR TITLE INSURANCE POLICIES IN CONDEMNATION CASES.

Generally it is not necessary to obtain a final Certificate of Title or Title Insurance Policy when land is acquired by filing a Declaration of Taking in a condemnation proceeding. It may be necessary that a Certificate of Title or Title Insurance Policy be obtained by which the company assumes the required liability. The EFD will be governed in all cases by the requirements of the local representative of the Department of Justice charged with the prosecution of the condemnation proceedings.

15. PAYMENT.

Before payment to the contractor is approved, the terms and conditions of the contract and the title evidence will be reviewed to determine that the contractor has fulfilled all the terms and conditions of the contract and that the amount claimed in the voucher or statement for services rendered is properly payable.

16. DELEGATION OF AUTHORITY TO EFD COUNSEL TO RENDER OPINIONS ON TITLE.

Section 355, Revised Statutes (40 U.S.C. 255, 33 U.S.C. 733, and 50 U.S.C. 175) as amended by Public Law 91-393, approved 1 September 1970 (84 Stat. 835), provides that the Attorney General give his prior written approval of the sufficiency of title to land for the purpose for which the property is being acquired; that the Attorney General may delegate

such responsibility to other departments and agencies, subject to his general supervision and in accordance with regulations promulgated by him; and that any department or agency which has been delegated the responsibility to approve title may request the Attorney General to render his opinion as to the validity of title to any real property or interest therein, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of title. Pursuant to P.L. 91-393 the Attorney General, on 2 October 1970, delegated such authority to the Secretary of the Navy. Acting on behalf of the Secretary of the Navy, on 10 December 1970, the General Counsel, Navy, delegated such authority to Counsel, Naval Facilities Engineering Command, and to such Counsel in a specified category whom he may designate. On 14 December 1970, the following were so designated to exercise such authority in strict accordance with the terms of the basic delegation:

Associate Counsel (Real Estate), NAVFACENGCOM
Counsel, Pacific Division
Counsel, Atlantic Division
Counsel, Chesapeake Division
Counsel, Northern Division
Counsel, Southern Division
Counsel, Western Division

17. DEED TO THE UNITED STATES.

The form of deed to the United States must be a general warranty deed except in conveyances by States, municipalities, fiduciaries and other persons acting solely in a representative capacity and must conform to the statutory form prescribed for the State in which the lands are located. The deed must also conform to the requirements of reference (a) where such regulations are not inconsistent with statutory requirements.

18. PREPARATION OF PURCHASE ASSEMBLY.

A purchase assembly will be prepared at the EPD upon acceptance of (1) an Agreement for Purchase, (2) a donation or exchange, or (3) an execution of Notice of Exercise of Option to Purchase Real Property. The assembly will be forwarded for a preliminary opinion on title to EPD Counsel. Normally included in the assembly are the following:

- a. Executed Agreement for Purchase of Real Property, executed option with executed copy of Notice of Acceptance of Option, or executed Agreement for Donation or Exchange of Real Property;
- b. Title evidence (abstract of title, certificate of title or binder for policy of title insurance);
- c. Proposed Deed of Conveyance (unexecuted);
- d. Certificate of Inspection and Possession;
- e. Certificate of non-interference, i.e., that existing easements or other encumbrances will not interfere with the purpose for which the real property is being acquired;

f. Miscellaneous documents, e.g., affidavits, disclaimers, certified copies of pertinent portions of articles of incorporation, resolutions authorizing sale; and

g. Map or plat of the parcel.

These items will be assembled in the inverse of the order above listed, placed under a binder and fastened with a prong paper fastener or similar device. An appropriate cover showing the project, Vendor, parcel number, acreage, city, county and state will be placed on the assembly.

19. TRANSMITTAL OF PURCHASE ASSEMBLY FOR PRELIMINARY OPINION.

If the preliminary opinion is to be rendered by the Attorney General, a letter transmitting the purchase assembly signed by the Officer in Command (of an Engineering Field Division), the Deputy Commander/Executive Officer or Counsel for the EPD, will be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC, 20530. It will contain a specific request that a preliminary opinion on the title to be acquired by the United States, based upon the title evidence and other documents contained in the purchase assembly, be provided for use in completing the acquisition of title to the land described in the proposed deed. It must also contain a statement identifying the property by number of acres, parcel numbers, its location by city, county and state, the name of the Naval activity for which it is being acquired, the name of the Vendor (granter), a citation to the authorization and appropriation acts, and the dates on which the Acquisition Reports were submitted to the Congressional Committees on Armed Services if such were required. This letter should include any additional comments concerning the title to the real property as may be of assistance to the Department of Justice. A copy of this letter must be provided to NAVFACENGCOM (Code 20R). Immediately upon receipt of the Attorney General's opinion on title, the Closing Attorney will review the entire file relating to the acquisition and fully acquaint himself with the terms and conditions of the sale and with the condition of the title. He will ascertain whether there are any conditions to be performed or requirements to be met on the part of the Vendor and the Government and what objections to the title are to be eliminated in accordance with the Attorney General's opinion before valid title may vest in the United States.

20. OBTAINING CHECKS.

Checks will be obtained upon submission of Standard Form 1034 (Public Voucher for Purchases and Services other than Personal) to the appropriate Navy Regional Finance Center in accordance with provisions of Chapter 7 of this publication.

21. PERSONNEL AUTHORIZED TO CLOSE.

Closing of acquisitions of real property or lesser interests therein by direct purchase will be conducted by office of Counsel, Engineering Field Division, hereinafter referred to as the "Closing Attorney", or by a qualified title company under the direction of the Closing Attorney. In the absence of Counsel, or Assistant Counsel, or if for other reasons neither is able to conduct a closing, Counsel, NAVFACENGCOM shall be notified.

22. RESPONSIBILITY OF CLOSING ATTORNEY.

Responsibility for proper closing action in connection with the acquisition of title or lesser interests in real property rests with the Closing Attorney. It is his responsibility to make certain that all mortgages, tax liens and other encumbrances have been discharged of record or waived by appropriate authority; that purchase money funds are properly disbursed and receipts obtained therefor, and to fully discharge all other responsibilities placed upon him by this Chapter in any case involving the closing of a purchase of real property or any interest therein on behalf of the United States.

23. CURATIVE ACTION.

Upon completion of the review of the file, the Closing Attorney will determine the character and amount of all outstanding interests in and liens and claims against the real property which are to be satisfied out of the purchase price, and determine what curative data must be obtained in order to cure all defects in the title. In those cases in which the title evidence consists of a certificate of title or title insurance policy issued by a title company, approval of the title company must be obtained as to all curative material obtained to eliminate the objections in the Certificate of Title or Title Insurance Policy and those which will be satisfied by an inspection of the property and the preparation and execution of a Certificate of Inspection and Possession. If any questions should arise as to the sufficiency of the curative matter which has been obtained to cure defects and to meet objections, it should be submitted for determination to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, or EFD Counsel as appropriate. When a difficult or complicated question of law which cannot be resolved is raised either in connection with an objection or exception in the title opinion or in the closing of the purchase, the Closing Attorney may, in accordance with the delegation of authority to EFD Counsel set forth in paragraph 16, be referred by him to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice. The referral will include a complete statement of the facts and references to the provisions of applicable statutes and pertinent decisions of federal and state courts, if any, on the question involved. In

such cases the determination of the Attorney General or Assistant Attorney General will be accepted as final and binding upon the Closing Attorney, and the closing will not be completed without full compliance with the determination of the Attorney General or Assistant Attorney General.

24. INSPECTION OF PROPERTY IMMEDIATELY PRIOR TO CLOSING.

Immediately prior to the closing of the purchase, the premises to be acquired will be inspected by the Closing Attorney or an authorized employee of the EPD for the purpose of bringing the Certificate of Inspection and Possession up to date. It will be ascertained whether any person or persons, other than the Vendor, are in possession of all or any part of the premises; whether all the buildings, improvements, crops and timber not reserved to the Vendor are still on the land to be conveyed and whether there have been repairs or improvements to, or construction on the premises which might give rise to mechanic's liens. If any person or persons is found in possession, his rights in the property should be determined and a disclaimer obtained. If possession of the land and improvements thereon has been surrendered to the Government prior to the time of closing, the Certificate of Inspection and Possession should be brought up to the date of surrender of possession by an appropriate showing thereon. If the inspection of the property discloses that any of the buildings, improvements, crops or timber to be acquired by the Government pursuant to the provisions of the Agreement for Purchase have been removed by parties other than the Government, the purchase should not be closed. The value of such buildings, improvements, crops or timber should be determined and an amended Agreement for Purchase must be obtained. The amended Agreement for Purchase should contain suitable explanatory provisions and provide for the payment of a consideration for the property equal to the consideration originally agreed to, less deductions for the value of the items removed. A corresponding correction in the consideration to be paid for the property should be made in the proposed deed of conveyance to the United States, and the check returned to NRFC for disposition. A new voucher (Standard Form 1034) reciting the proper consideration will be obtained and submitted to NRFC for issuance of a new check. If an amended Agreement for Purchase cannot be obtained, title to the property must be acquired through condemnation proceedings. If the buildings, improvements, crops or timber reserved to the Vendor have not been removed, the Vendor should be informed of his right to remove the reserved items, pursuant to the provisions of the Agreement for Purchase and that in the event of his failure to do so within the agreed time, they will become the property of the United States. Following the closing, the Certificate of Inspection and Possession will be extended to the date the deed is recorded.

25. EXAMINATION OF TITLE RECORDS.

The Closing Attorney will determine through an examination of the title records, or through the abstractor or authorized representative of the title company whether instruments adversely affecting the Vendor's title have been placed on record or filed subsequent to the date of the last abstractor's certificate, title certificate, or binder for title insurance. If no adverse change in the status of title has occurred since the date of the latest certificate, the closing should be accomplished.

26. RELEASE OF MORTGAGES, DEEDS OF TRUST, JUDGMENTS.

Prior to, or at the time of closing a purchase, all mortgages, deeds of trust, judgments, mechanics liens and similar encumbrances as to the acquired property will be satisfied and released or discharged of record. Penalty costs for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such real property shall be an expense charged to the Government providing such costs were fair and reasonable. If such costs have not been paid by the Vendor at the time of closing, the Government shall make payment thereof in the same manner as when a mortgage is being extinguished and releases thereof being obtained. If such costs have been paid by the Vendor at the time of closing, the Vendor shall be reimbursed for such costs paid by him as a part of and at such time the purchase money check is being disbursed to the Vendor and a receipt for "United States Treasurer's Check" obtained from him. Where the services of a title company are to be utilized, the title company will submit an invoice or a voucher on Standard Form 1034 covering this expense.

27. PAYMENT OF TAXES AND ASSESSMENTS.

The Government shall pay or reimburse the Vendor, as the case may be, the pro rata portion of such taxes and assessments which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such property by the United States, whichever is earlier; however, the Government shall not pay nor make reimbursement if such taxes and assessments are cancelled by State law upon acquisition by the United States. If such taxes have been paid by the Vendor before the closing and tax receipts obtained, the Vendor shall be reimbursed the pro rata portion allocable to the Government and may be included in the purchase money check. If the closing takes place after taxes or other assessments become a lien but before they are payable the provisions outlined hereafter in paragraph 28 will apply insofar as the Vendor's portion of the taxes is concerned. Payment of the pro rata portion of the taxes chargeable to the Government, when payment is to be made on or after closing, shall be made in the same manner as outlined in paragraph 26 pertaining to penalty costs of any pre-existing mortgage.

28. TAX LIENS FOR ASSESSMENTS NOT PAYABLE ON DATE OF CLOSING.

If the closing takes place after taxes or other assessments become a lien but before they are payable, adequate provision must be made to insure payment thereof. This should be accomplished by obtaining a certified check from the Vendor as to his chargeable portion of taxes payable to the proper tax collecting authority of the political subdivision in which the land is situated in the amount of such taxes or assessments, if the amount has been determined. If the amount has not been determined, an estimate will be made after consultation with the assessor and consideration of the amount of taxes or other assessments on the land for the preceding year. The certified check obtained from the Vendor should be in an amount equal to the estimate of the amount of taxes or assessments as the chargeable portion, plus 20% thereof, but in no event less than the preceding year's taxes chargeable to the Vendor, plus 20% thereof. In the event the Vendor is unwilling or unable to provide a certified check sufficient to cover the taxes or assessments, the required amount in the form of a cashier's check payable to the proper tax collecting authority should be withheld from the purchase price. When the taxes become payable, the certified check must, upon receipt of an official tax statement, promptly be transmitted by Registered Mail to the tax collector for payment of the taxes, with the request that the tax receipts be returned with his check, payable to the Vendor, in the amount of any refund due. A receipt must be obtained from the Vendor for any refund made to him, and inserted in the purchase assembly, unless refund is sent to the Vendor by Registered Mail, return receipt requested, in which case the postal return receipt will be inserted in the purchase assembly together with a copy of the letter transmitting the refund check. An exception to this procedure may be made as provided by paragraph 29.

29. EXCEPTION WHERE TITLE COMPANY ASSUMES RESPONSIBILITY.

Where the evidence of title consists of a certificate of title or policy of insurance, and funds are withheld for payment of taxes, the amount so withheld may be turned over to the title company, provided the title company is financially responsible and will agree to issue a final certificate in which no tax liens or unpaid taxes will be noted, or if noted, will be followed by the statement "For the payment of which provision has been made by deposit of a sufficient sum with this company". The title company will enter into an escrow agreement with the Vendor to hold such sum for the satisfaction of the taxes until due and to return any excess to the Vendor remaining after payment.

30. TAX COLLECTOR AUTHORIZED TO ACCEPT PAYMENT.

Taxes or assessments that are not due under State law at the time of closing, although the amount thereof has been determined, will not be paid to the Collector unless he has legal authority to accept payment and receipt for them in advance of the due date.

31. EXECUTION OF DEED.

When all objections to the title appearing in the preliminary opinion have been eliminated, the deed of conveyance to the United States will be executed, sealed, attested and acknowledged by all the grantors (Vendors) and their spouses as required by local law.

32. TAX STAMPS.

Prior to recordation, the deed will have affixed thereto tax stamps as required by the state in which the real property is located. The cost of the stamps if payable in a conveyance to the Government shall be paid by the Government.

33. DELIVERY OF PURCHASE MONEY CHECK TO THE VENDOR.

When all the objections in the title assembly have been eliminated and all instruments releasing liens or encumbrances on the real property have been placed on record, the deed of conveyance to the United States will be recorded. The purchase money check may then be disbursed to the Vendor and a receipt for "United States Treasurer's check" obtained from him.

34. FEE FOR RECORDING DEED TO THE UNITED STATES.

The fee for recording the deed to the United States if payable in a conveyance to the Government, shall be paid by the Government, including all other recording fees and similar expenses incidental to conveying such real property to the United States and payment will be made in any of the following ways:

a. By the EFD upon submission by the recorder of an invoice or a voucher on Standard Form 1034, which must be itemized and contain a reference to the provision of law or regulation fixing the recording fee;

b. The cash payment by the Closing Attorney in which case an itemized receipt will be obtained containing a reference to the contract number of the Agreement for Purchase and a reference to the provision of law or regulation fixing the recording fee and incidental expenses. Claim for reimbursement will be made on Standard Form 1012 with the receipt of the recorder attached; or

c. Through utilization of the services of a title company in which case the title company will submit an invoice or a voucher on Standard Form 1034.

35. FINAL TITLE EVIDENCE.

The continuation and certification of the abstract by the abstractor, up to and including the date on which the deed of conveyance to the Government is recorded or a final certificate of title or policy of title insurance, whichever has been contracted for, will be ordered and obtained without delay.

36. PREPARATION OF FINAL PURCHASE ASSEMBLY.

The Closing Attorney will review, upon receipt, the recorded Deed of Conveyance to the United States and as appropriate, the final continuation of the abstract and certification thereto, the final certificate of title, or the policy of title insurance. If found to be satisfactory in all respects, the completed purchase assembly consisting of the following, will then be forwarded, as appropriate, to Counsel EPD or the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC, 20530:

- a. Executed Agreement for Purchase of Real Property, executed option with executed copy of Notice of Acceptance of Option, or executed Agreement for Donation or Exchange of Real Property;
- b. Final title evidence (abstract of title, certificate of title or policy of title insurance);
- c. Original Deed of Conveyance;
- d. Certificate of Inspection and Possession extended to date of closing;
- e. Certificate of non-interference, i.e., that existing easements or other encumbrances will not interfere with the purposes for which the real property is being acquired;
- f. Miscellaneous documents, e.g., affidavits, disclaimers, certified copies of pertinent portions of articles of incorporation, resolutions authorizing sale, etc.;
- g. Receipt for United States Treasurer's check; and
- h. Map or plat of the parcel.

These items will be assembled in the inverse of the order above listed, placed under a binder and fastened with a prong paper fastener or similar device. Any appropriate cover showing the project, Vendor, parcel number, acreage, city, county and state will be placed on the assembly.

37. TRANSMITTAL OF FINAL PURCHASE ASSEMBLY FOR FINAL OPINION.

A memorandum or letter will transmit the purchase assembly to Counsel, EPD, or the Attorney General, as may be appropriate. The memorandum or letter, as appropriate, will contain the specific request that a final opinion on title based on the title evidence and other documents in the purchase assembly be furnished. If the final opinion is to be rendered by the Attorney General, request should be made that the final opinion be addressed to the Secretary of the Navy and forwarded to the Commander, Naval Facilities Engineering Command, Department of the Navy, 200 Stovall Street, Alexandria, Virginia, 22332. The memorandum or letter will contain a statement showing the date of the preliminary opinion, if applicable, file number, and the date of the conveyance to the United States. It will also contain a statement identifying the property by number of acres, parcel number, its location by city, county and state, the name of the Naval activity for which it is being acquired, and the name of the grantor. This letter will include any comments concerning

action taken to meet the objectives expressed in the preliminary opinion on title and such other comments as may be of assistance to Counsel or the Attorney General, as the case may be.

38. DELAY IN CLOSING DIRECT PURCHASE.

If, for any reason, a real property purchase cannot be closed within sixty days from receipt of purchase assembly by EFD Counsel, the closing attorney will return the case to the Director of Real Estate Division for submission of a condemnation assembly. The submission should be accompanied by a detailed explanation as to why the closing could not be accomplished within the sixty day period.

39. CLOSING UNDER A POWER OF ATTORNEY.

In cases where the presence of the vendor would ordinarily be necessary at the closing of a direct purchase of lands or interests therein, but he is unable or unwilling to be present personally and is not represented, the closing may be accomplished under a Power of Attorney from the Vendor to the closing attorney. Reference (d) will be used unless the Vendor is a corporation, in which case Standard Form 236 and 237 will be used. The Power of Attorney must include an order to disburse the funds to be paid the Vendor.

40. NOTIFICATION OF COMPLETED PURCHASE.

Immediately upon closing of an acquisition of real property by purchase, the EFD will notify the cognizant Major Claimant that the acquisition has been closed and of the Government's right of possession. Copies of this letter will be provided to NAVFACENGCOM and to the Naval activity for which the property has been acquired.

41. DISPOSITION OF RECORDS.

The Attorney General's final opinion on title and the related documents pertaining to the acquisition will be forwarded by NAVFACENGCOM to the EFD for permanent retention. The EFD will follow procedures prescribed in Chapter 27 of this publication for microfilming the documents and submission of the negatives to NAVFACENGCOM. If the final opinion on title is rendered by EFD Counsel the final opinion and related documents pertaining to the acquisition will be microfilmed and a set of the negatives transmitted to NAVFACENGCOM, Attention: Code 20R.

42. PREPARATION OF PROPERTY RECORD CARDS.

The EFD will, upon completion of a direct purchase, complete Property Record Cards in accordance with NAVFAC P-78.

43. AVAILABILITY OF FORMS.

NAVFAC 11011/6 (5-71) may be requisitioned from the Naval Publications and Forms Center, Philadelphia, Pennsylvania stock number 0105-LF-036-0600.